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Attorneys for Defendant GC Services Limited Partnership

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER ZIEHM
INDIVIDUALLY AND ON BEHALF
OF ALL OTHERS SIMILARLY
SITUATED.

Case No.: 14-cv-1599-AJB-DHB
NOTICE OF RELATED CASES

Plaintiffs.

V.

GC SERVICES, LIMITED PARTNERSHIP.

Defendant.

PLEASE TAKE NOTICE, pursuant to Civil L.R. 40.1(f), that the following case pending in this District and another case previously pending in this District are related to this case.

I. RELATED CASES

Thomasson, et al. v. GC Services LP, et al., S.D. Cal. Case No. 05-cv-940 JAH-KSC (“*Thomasson*”), filed May 4, 2005 and voluntarily dismissed pursuant to settlement on February 4, 2014 (*Thomasson* Dkt. 336)

Montemayor v. GC Services, LP, et al., S.D. Cal. Case No. 13-cv-1959 JAH-KSC (“Montemayor”) filed August 22, 2013 and still pending.

II. STATEMENT OF RELATIONSHIP OF THE ACTIONS

The *Thomasson* and *Montemayor* cases are related to this action because the actions involve the same or similar parties, the same or similar claims, the same

1 transactions or events, and substantially the same facts and questions of law.
 2 Specifically:

3 (1) GC Services Limited Partnership is the only named defendant in all three
 4 actions;

5 (2) Plaintiffs in all actions assert putative class actions where the alleged
 6 classes, as defined in the respective complaints, are similar (*Cf. Thomasson* Dkt. No. 6
 7 at ¶¶ 41-42; *Montemayor* Dkt. No. 1 at ¶ 28 and *Ziehm* Dkt. No. 1 at ¶ 32);

8 (3) The operative complaints in all actions allege that a GC Services Limited
 9 Partnership practice and policy of monitoring and recording its own telephone calls
 10 with plaintiffs and the putative classes, in the ordinary course of its own business,
 11 violates California Penal Code section 632 and/or 632.7, pursuing the same or similar
 12 relief for similar classes of persons and asserting the same or similar common issues
 13 for certification of similar classes (*Cf. Thomasson*, Dkt No. 6 at ¶¶ 44 and 50-56;
 14 *Montemayor* Dkt. No. 1 at ¶¶ 32 and 38-45; and *Ziehm* Dkt. 1 at ¶¶ 36 and 42-52);

15 (4) All the actions allege that, pursuant to its business practices and policies,
 16 GC Services Limited Partnership monitored and recorded telephone calls with
 17 plaintiffs and some members of the class, in the ordinary course of business, without
 18 first obtaining consent from the named plaintiffs and some class members (*Cf.*
 19 *Thomasson* Dkt. No. 6 at ¶ 40; *Montemayor*, Dkt. No. 1 at ¶¶ 20-22); and *Ziehm* Dkt.
 20 No. 1 at ¶¶ 45-50).

21 (5) The *Thomasson* case was pending in this Court between May 4, 2005 and
 22 February 14, 2014, including two appeals to the Ninth Circuit. In the first appeal the
 23 Ninth Circuit affirmed summary judgment by the District Court on the claims for
 24 violation of California Penal Code section 632, and reversed summary judgment as to
 25 the claim for violation of the Fair Debt Collection Practices Act (Ninth Circuit Case
 26 No. 07-56215, Dkt. No. 33). In the most recent appeal, the Ninth Circuit reversed the
 27
 28

1 class certification order by the District Court and remanded with instructions to de-
 2 certify the class (Ninth Circuit Case No. 11-56100, Dkt. No. 33-1).

3 (6) The *Montemayor* case was filed in this district on August 8, 2013 and
 4 assigned to Judge William Q. Hayes and Magistrate Judge Ruben B. Brooks. GC
 5 Services filed a Notice of Related Case in *Montemayor* (*Montemayor* Dkt. No. 4)
 6 suggesting that *Montemayor* and *Thomasson* cases should be assigned to a single
 7 district judge for judicial efficiency. As a result of that suggestion *Montemayor* was
 8 transferred to Judge John A. Houston and Magistrate Judge Karen S. Crawford, who
 9 were assigned to the then pending *Thomasson* case, pursuant to the Low Number Rule
 10 (*Montemayor* Dkt. No. 8). On December 3, 2013 GC Services filed a pre-answer
 11 motion to dismiss the *Montemayor* case based, in part on the prior rulings in the
 12 *Thomasson* case (*Montemayor* Dkt. No. 16). That motion is fully briefed and was
 13 taken under submission by Judge Houston on February 5, 2014 (*Montemayor* Dkt. No.
 14 25).

15 (7) The *Ziehm* case was filed in the Central District of California on May 20,
 16 2014 (*Ziehm* Dkt. No. 1). GC Services filed a consent motion to change venue of the
 17 *Ziehm* case to this district based on the pendency of the *Montemayor* case and this
 18 Court's prior history with the *Thomasson* case (*Ziehm* Dkt. No. 11). Plaintiff filed a
 19 statement of no opposition to GC Services' motion to change venue (*Ziehm* Dkt. No.
 20 12). On July 1, 2014 Judge Stephen V. Wilson in the Central District granted the
 21 motion to change venue. In his findings in support of granting the consent motion to
 22 change venue Judge Wilson stated: "Finally, transfer will further judicial economy in
 23 view of the apparently similar case of *Thomasson v. GC Services, Ltd. Partnership*,
 24 No. CV-05-00940-LAB, which was recently pending in the Southern District. See
 25 *Thomasson v. GC Services Ltd. Partnership*, 321 Fed. App'x 557 (9th Cir. 2008)
 26 (unpublished)" (*Ziehm* Dkt. 13).

1 **III. STATEMENT ON PROPRIETY OF ASSIGNMENT TO A SINGLE**
2 **JUDGE**

3 GC Services Limited Partnership believes that assignment of the *Ziehm* case
4 and the *Montemayor* case to a single district judge in the Southern District is
5 appropriate to save judicial effort and prevent inconsistent results.

6 Respectfully submitted,

7 Dated: July 7, 2014

8 **WRIGHT & L'ESTRANGE**
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10 Limited Partnership

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